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Attorneys for Defendant Hidden Valley Lake Association

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

WAYNE CLARK,	)	No. 3:16-cv-2009 SI
	)	
Plaintiff,	)	STIPULATION TO FILING OF
	)	SECOND AMENDED COMPLAINT
vs.	)	<u>AND <del>(PROPOSED)</del> ORDER THEREON</u>
	)	
HIDDEN VALLEY LAKE	)	
ASSOCIATION, INC., et al.,	)	
	)	
Defendants.	)	

Plaintiff WAYNE CLARK and Defendant HIDDEN VALLEY LAKE ASSOCIATION  
hereby stipulate to the following:

- At the Case Management Conference of March 24, 2017, the parties agreed to file a Stipulation and Proposed Order amending the First Amended Complaint by dismissing the Twelfth and Thirteenth Causes of Action and to attach the (Proposed) Amended Complaint to the stipulation. The Court entered an Order that such be done;
- The parties have subsequently agreed to amending the First Amended Complaint

1 by dismissing as well the First and Second Causes of Action, for Breach of Contract and Breach  
2 of the Covenant of Good Faith and Fair Dealing, respectively;

3 3. The parties further agree that, aside from the dismissals of the First, Second,  
4 Twelfth and Thirteen Causes of Action, the (Proposed) Second Amended Complaint does not  
5 change the substance of the remaining Causes of Action and that Defendant's Answer to the  
6 First Amended Complaint shall be deemed to be the Answer to the Second Amended  
7 Complaint;

8 4. A true and correct copy of the (Proposed) Second Amended Complaint  
9 incorporating the above described amendments is appended hereto;

10 5. The dates established by the Pretrial Preparation Order of December 12, 2016, as  
11 amended, will not be disturbed by the filing of the (Proposed) Second Amended Complaint.

12 Dated: May 26, 2017

LAW OFFICE OF VICTOR C. THUESEN

13  
14 By /s/ Victor C. Thuesen

15 Victor C. Thuesen

16 Attorney for Plaintiff WAYNE CLARK

17 Dated: May 26, 2017

MURPHY, PEARSON, BRADLEY & FEENEY

18  
19 By /s/ William A. Munoz

20 William A. Munoz

21 Attorneys for Defendant

HIDDEN VALLEY LAKE ASSOCIATION

22 ~~(PROPOSED)~~ ORDER GRANTING LEAVE TO FILE SECOND AMENDED COMPLAINT

23 Pursuant to the Stipulation of the Parties, and good cause appearing, it is ORDERED  
24 that the (Proposed) Second Amended Complaint attached hereto may be filed with the Court  
25 within \_ days of this Order and that Defendant Hidden Valley Lake Association's Answer to the  
26 First Amended Complaint shall be deemed its Answer to the Second Amended Complaint.

27 Dated: 5/31/2017

28 

SUSAN ILLSTON

United States District Judge

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Attorney for Plaintiff WAYNE CLARK

IN THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF CALIFORNIA

WAYNE CLARK,	)	NO. 3:16-CV-2009 SI
Plaintiff,	)	
vs.	)	<del>(PROPOSED)</del> SECOND AMENDED
	)	COMPLAINT FOR VIOLATION OF
HIDDEN VALLEY LAKE	)	PRIVACY, CALIFORNIA
ASSOCIATION, INC., and	)	CONSTITUTION, ARTICLE I, SECTION
DOES 1 through 20,	)	1; DEFAMATION; NEGLIGENT
	)	SUPERVISION; NEGLIGENT
Defendants.	)	INFLECTION OF EMOTIONAL
	)	DISTRESS; INTENTIONAL INFLECTION
	)	OF EMOTIONAL DISTRESS; LIBEL;
	)	FALSE LIGHT INVASION OF PRIVACY;
	)	INTERFERENCE WITH PROSPECTIVE
	)	ECONOMIC ADVANTAGE AND
	)	BUSINESS RELATIONS; VIOLATION
	)	OF LABOR CODE §§201 AND 203 FOR
	)	LATE PAYMENT OF WAGES
	)	JURY TRIAL DEMANDED

JURISDICTION AND VENUE

Plaintiff WAYNE CLARK respectfully alleges and complains against the above-named defendants, HIDDEN VALLEY LAKE ASSOCIATION and DOES 1-20, inclusive, and each of them, and demands a jury trial of all issues and causes of action, as follows:

1. This is an action brought pursuant to 28 U.S.C. § 1332 as complete diversity exists between the parties.

2. Plaintiff WAYNE CLARK ("CLARK" or "Plaintiff") resides in the State of Washington. Defendant HIDDEN VALLEY LAKE ASSOCIATION ("Defendant" or "HVLA") is incorporated in the State of California and has its current place of business in Lake County in the

1 State of California.

2 3. The true names and capacities, whether individual, corporate, government, associate  
3 or otherwise, of Defendants sued herein as Does 1 to 20, inclusive, are unknown to plaintiff at this  
4 time and plaintiffs therefore sue said Defendants by such fictitious names. Plaintiff will seek leave  
5 to amend this First Amended Complaint to show their true names and capacities when the same have  
6 been ascertained. Plaintiff is informed and believes and thereon alleges that each of the Defendants  
7 designated as a Doe is in some manner responsible for the occurrences and injuries alleged herein.  
8 Plaintiff believes all Doe Defendants are residents of the State of California.

9 4. The true names and capacities, whether individual, corporate, government, associate  
10 or otherwise, of Defendants sued herein as Does 1 to 20, inclusive, are unknown to plaintiff at this  
11 time and plaintiffs therefore sue said Defendants by such fictitious names. Plaintiff will seek leave  
12 to amend this First Amended Complaint to show their true names and capacities when the same have  
13 been ascertained. Plaintiff is informed and believes and thereon alleges that each of the Defendants  
14 designated as a Doe is in some manner responsible for the occurrences and injuries alleged herein.  
15 Plaintiff believes all Doe Defendants are residents of the State of California.

16 5. CLARK is informed and believes and thereon alleges that at all times herein  
17 mentioned, except where explicitly specified otherwise, each and every Defendant was the agent and  
18 employee of each and every other Defendant, and in doing the things, acts and omissions hereinafter  
19 alleged, was acting within the course and scope of such agency and employment, and in so doing was  
20 acting with the consent, permission, and authorization of each of the remaining Defendants. All  
21 actions of each Defendant as herein alleged were ratified and approved by the officers or managing  
22 agents of each and every other Defendant.

23 FIRST CAUSE OF ACTION

24 VIOLATION OF CALIFORNIA CONSTITUTION, ARTICLE 1, SECTION 1

25 6. Plaintiff is a professional golfer. He was hired in 2011 to serve as Defendant's  
26 Director of Golf.

27 7. On April 15, 2015, HVLA General Manager Cindy Spears ("Spears") gave verbal  
28 notice to plaintiff CLARK that HVLA was terminating his contract for no cause effective that day.

1           8.       CLARK was a very popular employee of HVLA. In order to justify CLARK'S  
2 termination Spears engaged in a course of conduct and action to impugn CLARK's personal and  
3 professional reputation. In the months following Clark's termination, Spears manufactured  
4 information about Clark's performance as the Director of Golf that was untrue. She conveyed this  
5 information to individuals that had no reason to know of it even if it were true. The information  
6 included claims that Clark had embezzled funds of the Association, that he drank alcohol and  
7 watched pornography while working, that he was going to be arrested for criminal conduct and that  
8 he had engaged in fraud, dereliction of duties and theft, all of which she knew were untrue. She told  
9 nonHVLA employees about such scurrilous and scandalous information about CLARK with the  
10 intent that the nonHVLA employees would gossip about CLARK and publish the false information  
11 on social media, including Facebook. The result was that certain nonHVLA employees posted false  
12 information on Facebook and other websites that were intended to support the idea that CLARK had  
13 been terminated for the conduct described herein. Spears conveyed such information as well to  
14 employees of HVLA that had no reason to know of such information. She also started ~~the~~ rumors  
15 that CLARK had been terminated "for cause."

16           9.       Prior to his termination, CLARK had never been given a negative performance  
17 evaluation and had performed his duties well at all times. He was never informed of deficient  
18 performance or given any opportunity to respond as was required by the terms of his employment  
19 contract and HLVA's practice and procedure associated with those terms.

20           10.      In addition to the foregoing, Spears started rumors about CLARK that she knew to  
21 be untrue including that he had inappropriately taken monies from the HVLA golf shop; that he  
22 failed to charge all people for playing golf even though it was required; that he had pornography on  
23 his computer; that he mismanaged the golf operation budget and increased HVLA subsidization from  
24 HVLA funds; that his employment contract was illegal and invalid; that he did not pay for food or  
25 drinks at the HVLA bar; that he made fraudulent use of his credit card, and; that HVLA paid for  
26 CLARK's participation in golf tournaments inappropriately.

27           11.      At all times during and following CLARK's employment with HVLA, he had the  
28 right to have his personnel information kept private. Spears violated this right when she purposefully,

1 knowingly and willingly disclosed information regarding CLARK's confidential employment terms,  
2 her unsupported claims about CLARK'S performance and conduct as alleged herein and other  
3 confidential personnel information for the purpose of impugning his reputation and justifying his  
4 termination for cause.

5 12. As a direct and proximate result of Defendants' violation of his Constitutional right  
6 to privacy in his employment information, CLARK has suffered and continues to suffer a substantial  
7 loss of earnings and other employment benefits that he would have received in post-termination  
8 employment had Defendants not involved itself in publishing false and harmful information about  
9 his employment with Defendant as herein alleged. Plaintiff has also suffered and continues to suffer  
10 emotional harm, humiliation and mental anguish all to Plaintiff's damage.

11 13. The conduct of Defendants was willful, oppressive, fraudulent and malicious, thereby  
12 entitling Plaintiff to an award of punitive damages.

### 13 SECOND CAUSE OF ACTION

#### 14 DEFAMATION

15 14. Plaintiff realleges and incorporates herein by reference each and every allegation  
16 contained in paragraphs 1 through \_\_, inclusive, as though fully set forth herein.

17 15. On information and belief, Plaintiff asserts that Defendant HVLA or its agents, orally  
18 uttered to others, or caused to be published, that CLARK was an incompetent employee, or words  
19 to that effect, and that any problems with the golf operations at HVLA were caused by CLARK.

20 16. On information and belief, Plaintiff further alleges that Spears orally uttered to others,  
21 or caused to be published, that CLARK was negligent in the performance of his duties and that she  
22 further orally uttered to others, or caused to be published, words which tended directly to injure  
23 CLARK with respect to his office, profession, trade or business. Among other things, Spears  
24 deliberately represented to individuals that were neither employed by nor officers or representatives  
25 of HVLA that CLARK was going to be arrested for criminal conduct including fraud, dereliction of  
26 duties, theft and embezzlement, all of which she knew were untrue. She made these claims to  
27 nonHVLA employees with the intent that the nonHVLA employees would gossip about CLARK and  
28 publish the false information on social media, including Facebook. The result was that certain

1 nonHVLA employees posted false information on Facebook and other websites that appeared to  
2 support the idea that CLARK had actually committed such actions and was a scurrilous man.

3 17. The utterances and publications made by Defendants were not privileged because  
4 Defendants published these statements with personal animosity, hatred and ill will toward CLARK,  
5 and they were published to persons who were not interested, and to persons who do not stand in a  
6 relationship with an interested person.

7 18. Such publications were false and injured CLARK's reputation and his ability to retain  
8 his job or to obtain other employment.

9 19. The publicity created by Defendants was offensive and objectionable to CLARK and  
10 to a reasonable person of ordinary sensibilities in that Spear's defamatory statements were the  
11 catalyst for CLARK's termination and continued for a significant period of time after CLARK'S  
12 termination and have precluded CLARK from finding comparable replacement employment.

13 20. The publicity created by Defendants was done with malice in that it was made either  
14 with knowledge of its falsity or in reckless disregard of its truth.

15 21. As a direct and proximate result of Defendants' defamatory statements, CLARK  
16 suffered and continues to suffer a substantial loss of earnings and other employment benefits and has  
17 suffered and continues to suffer humiliation and mental anguish all to plaintiff's damage in an  
18 amount not yet ascertained, but within the minimum jurisdiction of this Court. Plaintiff will seek  
19 leave to amend this Second Amended Complaint and insert the amount when the same is ascertained  
20 or on proof thereof.

21 22. The conduct of Defendants was willful, oppressive, fraudulent and malicious, thereby  
22 entitling plaintiff to an award of punitive damages.

23 THIRD CAUSE OF ACTION

24 NEGLIGENT SUPERVISION

25 23. Plaintiff realleges and incorporates herein by reference each and every allegation  
26 contained in paragraphs 1 through 22, inclusive, as though fully set forth herein.

27 24. Plaintiff alleges that Defendant HVLA owes all of its employees a duty to supervise  
28 its employees in a manner consistent with common law. As an employee of HVLA, HVLA owed

1 CLARK this same duty.

2 25. HVLA breached its duty to CLARK by failing to supervise ~~Cindy~~ Spears and  
3 discipline her appropriately upon notice of her unsafe, unhealthy, and unlawful conduct even though  
4 it knew or should have known from complaints by CLARK and other employees ~~that~~ Cindy Spears  
5 was abusing her office, mistreating employees, making false statements about them, violating their  
6 right to privacy by discussing confidential employment information with people who had no need  
7 to know and creating a negative and abusive work environment.

8 26. As a direct and proximate result of this breach of duty, Plaintiff has suffered  
9 substantial economic losses and mental and emotional harm, including, but not limited to lost  
10 wages, humiliation, mental anguish, embarrassment, loss of sleep, depression, as well as other  
11 compensatory and consequential damages. He has also suffered pecuniary losses including ~~the costs~~  
12 of relocating and ~~costs of~~ trying to find replacement employment.

13 27. The conduct of Defendants was willful, oppressive, fraudulent and malicious, thereby  
14 entitling plaintiff to an award of punitive damages.

15 FOURTH CAUSE OF ACTION

16 NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

17 28. Plaintiff realleges and incorporates herein by reference each and every allegation  
18 contained in paragraphs 1 through 27, inclusive, as though fully set forth herein.

19 29. In terminating plaintiff for conduct and reasons that were not accurate, Defendants  
20 could foresee that plaintiff would suffer great emotional distress. In purposely stating purported  
21 facts she knew to be untrue for the purpose of harming CLARK's reputation and goodwill in the  
22 community and his profession, Cindy Spears negligently caused plaintiff great emotional distress.  
23 Plaintiff did and does in fact suffer such distress.

24 30. As a direct and proximate result of this breach of duty, plaintiff has suffered  
25 substantial economic losses and mental and emotional harm, including, but not limited to lost  
26 wages, humiliation, mental anguish, embarrassment, loss of sleep, depression, as well as other  
27 compensatory and consequential damages. He has also suffered pecuniary losses including the  
28 costs of relocating and trying to find replacement employment.

1           31.     The conduct of Defendants was willful, oppressive, fraudulent and malicious,  
2 thereby entitling plaintiff to an award of punitive damages.

3                               FIFTH CAUSE OF ACTION

4                               INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

5           32.     Plaintiff realleges and incorporates by reference each and every allegation  
6 contained in paragraphs 1 through 31, inclusive, as though fully set forth herein.

7           33.     On information and belief, plaintiff alleges that Defendants orally uttered to  
8 others, or caused to be published, direct statements and statements by innuendo that CLARK was  
9 negligent in the performance of his duties, and purposely stating purported facts she knew to be  
10 untrue for the purpose of harming CLARK's reputation and goodwill in the community and his  
11 profession, Cindy Spears intentionally caused plaintiff great emotional distress. Plaintiff did and  
12 does in fact suffer such distress.

13          34.     On information and belief, Plaintiff alleges that Defendants orally uttered to  
14 others, or caused to be published words which tended directly to injure CLARK with respect to  
15 his office, profession, trade or business. Since his termination, CLARK has applied for golf pro  
16 positions unsuccessfully.

17          35.     Defendant's statements spawned an environment rife with innuendo, speculation  
18 and rumor about CLARK and his personal and professional character, profession, trade and  
19 business. Hidden Valley Lake is a small community. On information and belief, plaintiff alleges  
20 it has a very tight-knit group. CLARK's termination was reported widely in several editions of  
21 the Association's newsletter, and HVLA's several social media pages. Plaintiff believes that  
22 rumors among HVLA were started or contributed to by Cindy Spears and HVLA Board  
23 Members' various public comments. Such innuendos have created a public perception that  
24 CLARK was terminated for incompetence in his profession and other wrongs involving moral  
25 turpitude.

26          36.     The utterances and publications made by Defendants were not privileged because  
27 Defendants published these statements with personal animosity, hatred, and ill will toward  
28 CLARK with the intent to disgrace and injure Plaintiff, to bring him into public disregard and

1 cause the public to hold him in contempt and ridicule. The statements were published to those  
2 persons who were not interested parties and to those persons who do not stand in a relationship  
3 with an interested person.

4 37. Such publications were false and injured CLARK's reputation and his ability to  
5 retain his job or to obtain other employment.

6 38. The publicity created by Defendants was offensive and objectionable to CLARK  
7 and to a reasonable person of ordinary sensibilities in that it made CLARK the object of  
8 suspicion of criminal intent, wrongdoing, moral turpitude and professional incompetence.

9 39. The publicity created by Defendants was done with malice in that it was made  
10 either with knowledge of its falsity or in reckless disregard of its truth in that the HVLA, and its  
11 individual Board members and administration were aware of and had access to CLARK's  
12 personnel file and employment records.

13 40. As a direct and proximate result of this breach of duty, plaintiff has suffered  
14 substantial economic losses and mental and emotional harm, including, but not limited to lost  
15 wages, humiliation, mental anguish, embarrassment, loss of sleep, depression, as well as other  
16 compensatory and consequential damages. He has also suffered pecuniary losses including the  
17 costs of relocating and costs of trying to find replacement employment.

18 41. The conduct of Defendants was willful, oppressive, fraudulent and malicious,  
19 thereby entitling plaintiff to an award of punitive damages.

## 20 SIXTH CAUSE OF ACTION

### 21 LIBEL

22 42. Plaintiff realleges and incorporates by reference each and every allegation  
23 contained in paragraphs 1 through 41, inclusive, as though fully set forth herein.

24 43. On information and belief, plaintiff alleges that Defendants, through its Board  
25 Member(s), General Manager and certain employees, and as directed by its General Manager,  
26 caused others to purposely to publish in writing defamatory, unprivileged information publicly,  
27 including without limitation that CLARK looked at pornography on his computer, embezzled  
28 funds, lost monies by failing to charge players for golf at the golf course, and other purported

1 facts it knew to be false and untrue all for the purpose of harming CLARK's reputation and  
2 goodwill in the community and his profession. As a result, CLARK has been exposed to  
3 disgrace, ridicule, hatred, contempt, and caused plaintiff to be shunned or avoided and injured in  
4 his profession. He has also suffered emotional distress as a result of Defendant's wrongful  
5 conduct.

6 44. On information and belief, plaintiff alleges that Defendants published in writing,  
7 or caused to be published in writing words which tended directly to injure CLARK with respect  
8 to his office, profession, trade or business and done with fault and malice. Since his termination,  
9 CLARK has applied for golf pro positions unsuccessfully.

10 45. Defendant's written statements spawned an environment rife with innuendo,  
11 speculation and rumor about CLARK and his personal and professional character, profession,  
12 trade and business. Hidden Valley Lake is a small community. On information and belief,  
13 plaintiff alleges it has a very tight-knit group. CLARK's termination was reported widely in  
14 several editions of the Association's newsletter, and HVLA's several social media pages.  
15 Plaintiff believes that rumors among HVLA were started or contributed to by Cindy Spears and  
16 HVLA Board Members' various public writings. Such false innuendos have created a public  
17 perception that CLARK was terminated for incompetence and moral turpitude reasons.

18 46. The publications made by Defendants were not privileged because Defendants  
19 published these statements with personal animosity, hatred, and ill will toward CLARK with the  
20 intent to disgrace and injure plaintiff, to bring him into public disregard and cause the public to  
21 hold him in contempt and ridicule. The publications were to persons who were not interested  
22 parties and to those persons who do not stand in a relationship with an interested person.

23 47. Such publications were false and injured CLARK's reputation and his ability to  
24 retain his job or to obtain other employment. He was shunned and avoided.

25 48. The publicity created by Defendants was offensive and objectionable to CLARK  
26 and to a reasonable person of ordinary sensibilities in that it made CLARK the object of  
27 suspicion of criminal conduct, wrongdoing, moral turpitude and professional incompetence.

28 49. The publicity created by Defendants was done with malice in that it was made

1 either with knowledge of its falsity or in reckless disregard of its truth in that the HVLA, and its  
2 individual Board members and administration were aware of and had access to CLARK's  
3 personnel file and employment records.

4 50. As a direct and proximate result of this breach of duty, plaintiff has suffered  
5 substantial economic losses and mental and emotional harm, including, but not limited to, lost  
6 wages, humiliation, mental anguish, embarrassment, loss of sleep, depression, as well as other  
7 compensatory and consequential damages. He has also suffered pecuniary losses including the  
8 costs of relocating and costs of trying to find replacement employment.

9 51. The conduct of Defendants was willful, oppressive, fraudulent and malicious,  
10 thereby entitling plaintiff to an award of punitive damages.

#### 11 SEVENTH CAUSE OF ACTION

##### 12 FALSE LIGHT INVASION OF PRIVACY

13 52. Plaintiff realleges and incorporates by reference each and every allegation  
14 contained in paragraphs 1 through 51, inclusive, as though fully set forth herein.

15 53. On information and belief, Plaintiff alleges that Defendants, ~~itself~~, through its  
16 Board Member(s), HVLA's General Manager and certain employees, and as directed by its  
17 General Manager, caused others to purposely publish orally and in writing to a large number of  
18 people and to the public in general unfair and inaccurate depictions of CLARK. The published  
19 statements were defamatory and unprivileged information, including without limitation that  
20 CLARK looked at pornography on his computer, embezzled funds, lost monies by failing to  
21 charge players for golf at the golf course, and other purported facts it knew to be false and untrue  
22 all for the purpose of harming CLARK's reputation and goodwill in the community and his  
23 profession. The publications unfairly and inaccurately depicted CLARK in a false light. As a  
24 result, CLARK has been exposed to disgrace, ridicule, hatred, contempt, and caused plaintiff to  
25 be shunned or avoided and injured in his profession. He has also suffered emotional distress as a  
26 result of Defendant's wrongful conduct. The publications unfairly and inaccurately depicted  
27 CLARK and were highly offensive to a reasonable person.

28 54. On information and belief, Plaintiff alleges that Defendants published in writing,

1 or caused to be published in writing, words which tended directly to injure CLARK with respect  
2 to his office, profession, trade or business and done with fault and malice. It was done  
3 intentionally or in reckless disregard of the falsity of the publications and the false light in which  
4 CLARK would be placed. Defendants acted negligently in failing to learn whether the  
5 publications placed plaintiff in a false light. Since the false publications and his termination,  
6 CLARK has applied for golf pro positions unsuccessfully.

7 55. Defendant's written statements spawned an environment rife with innuendo,  
8 speculation and rumor about CLARK and his personal and professional character, profession,  
9 trade and business. Hidden Valley Lake is a small community. On information and belief,  
10 plaintiff alleges it has a very tight-knit group. CLARK's termination was reported widely in  
11 several editions of the Association's newsletter, and HVLA's several social media pages.  
12 Plaintiff believes that rumors among HVLA were started or contributed to by Cindy Spears and  
13 HVLA Board Members' various public writings. Such false innuendos have created a public  
14 perception that CLARK was terminated for incompetence and moral turpitude reasons.

15 56. The publications made by Defendants were not privileged because Defendants  
16 published these statements with personal animosity, hatred, and ill will toward CLARK with the  
17 intent to disgrace and injure plaintiff, to bring him into public disregard and cause the public to  
18 hold him in contempt and ridicule. Their publications were to persons who were not interested  
19 parties, and to those persons who do not stand in a relationship with an interested person.

20 57. Such publications were false and injured CLARK's reputation and his ability to  
21 retain his job or to obtain other employment. He was shunned and avoided.

22 58. The publicity created by Defendants was offensive and objectionable to CLARK  
23 and to a reasonable person of ordinary sensibilities in that it made CLARK the object of  
24 suspicion of criminal intent, wrongdoing, moral turpitude and professional incompetence.

25 59. The publicity created by Defendants was done with malice in that it was made  
26 either with knowledge of its falsity or in reckless disregard of its truth in that the HVLA, and its  
27 individual Board members and administration were aware of and had access to CLARK's  
28 personnel file and employment records.



1 substantial economic losses and mental and emotional harm, including, but not limited to, lost  
2 wages, humiliation, mental anguish, embarrassment, loss of sleep, depression, as well as other  
3 compensatory and consequential damages. He has also suffered pecuniary losses including the  
4 costs of relocating and trying to find replacement employment.

5 68. The conduct of Defendants was willful, oppressive, fraudulent and malicious,  
6 thereby entitling plaintiff to an award of punitive damages.

7 NINTH CAUSE OF ACTION

8 VIOLATION OF LABOR CODE §§ 201 AND 203

9 69. Plaintiff realleges and incorporates by reference each and every allegation  
10 contained in paragraphs 1 through 70, inclusive, as though fully set forth herein.

11 70. Plaintiff held an employment contract with Defendants for which he received  
12 commission wages as defined by California Labor Code §200. Defendants terminated plaintiff on  
13 or about April 15, 2015 without advance notice. At the time of his termination from employment,  
14 Defendant HVLA failed to pay CLARK all commissions earned or were in process of being  
15 earned as required by California Labor Code §201. Plaintiff did not secret or absent himself or  
16 avoid Defendant's payment to him.

17 71. Wherefore plaintiff prays that Defendants pay earned commissions in the amount  
18 of proof at trial; penalties according to California Labor Code §203 for wages equivalent to his  
19 daily rate for a period not to exceed 30 days; and attorneys' fees and costs pursuant to California  
20 Labor Code §218.5.

21 PRAYER FOR RELIEF

22 Plaintiff requests such damages from Defendants as to be proved at trial as follows:

23 1. For a money judgment representing general and compensatory damages including  
24 lost past and future wages, earnings, retirement benefits and other employee benefits, ~~government~~  
25 ~~service credits~~ and all other sums of money, together with prejudgment interest on those  
26 amounts.

27 2. For all general and compensatory damages incurred for the lasting harm to  
28 CLARK's professional reputation and other monetary relief.

3. For a money judgment for mental pain and anguish and emotional distress.
4. For costs of suit herein incurred.
5. For reasonable attorneys' fees.
6. For punitive damages.
7. For prejudgment and post-judgment interest.
8. For such other and further relief as the Court may deem just and proper.

JURY DEMAND

CLARK hereby demands a trial by jury of all issues in this case.

Dated: May 26, 2017

LAW OFFICES OF VICTOR C. THUESEN

\_\_\_\_\_  
VICTOR C. THUESEN  
Attorney for Plaintiff WAYNE CLARK